



PATENT  
Customer No. 22,852  
Attorney Docket No. 02860.0648-00

In re Application of:

Katsushi FUJITA

Application No.: 09/590,173

Filed: June 9, 2000

For: COLOR PROOF FORMING  
METHOD AND COLOR PROOF  
FORMING APPARATUS

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)  
) Group Art Unit: 2626

) Examiner: NGUYEN, Madeleine Anh  
) Vinh

) Confirmation No.: 3385  
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Examiner Nguyen:

**PREMATURE FINALITY OF OFFICE ACTION**

Facts

In the Amendment filed June 25, 2004, Applicant submitted new claims 6-9 for examination. Despite being new claims, they were of substantially the same subject matter as canceled claims 4 and 5 with the allowable subject matter of as-filed claims 2 and 3, according to the following chart:

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Claims that were combined	New (combined) claims
<p><b>Claim 4 (cancelled).</b> A color proof forming method comprising the steps of:</p> <p>(a) receiving a plurality of colors of image data including a black color, and forming image data for an exposure; and</p> <p>(b) exposing a color light-sensitive material according to the data for the exposure, and forming a color proof, wherein, in the step of forming the data for the exposure, the data for the exposure which is different in image data in which the black color and other colors are overlapped with each other, and image data of only the black color, is formed.</p>	<p><b>Claims 6. (4+2)</b> A color proof forming method comprising the steps of:</p> <p>receiving image data for a plurality of colors including black;</p> <p>forming different exposure data for image data in which black and another color overlap than for black-only image data;</p> <p>exposing a color light-sensitive material according to the exposure data; and</p> <p>forming a color proof comprising</p> <p><u>generating a black color on the color light-sensitive material for the black-only exposure data, and</u></p> <p><u>generating a higher density black color on the color light-sensitive material for the black and another color overlap exposure data than the black color generated for the black-only exposure data.</u></p>
<p><b>Claim 2 (allowable):</b> The color proof forming apparatus of claim 1, wherein the image processor <u>forms the data for exposure so that a higher density black color than in the case of the image data of only the black color is generated in a color light-sensitive material for the image data in which the black color and the other colors are overlapped with each other.</u></p>	

Claims that were combined	New (combined) claims
<p><b>Claim 3 (allowable)</b> The color proof forming apparatus of claim 1,</p> <p>wherein the image processor <u>forms the data of exposure so that a lower density black color than in the case of the image data of only the black color is generated in a color light-sensitive material for the image data in which the black color and the other colors are overlapped with each other.</u></p>	<p><b>Claim 7 (4[see above]+3):</b> A color proof forming method comprising the steps of:</p> <ul style="list-style-type: none"> <li>receiving image data for a plurality of colors including black;</li> <li>forming different exposure data for image data in which black and another color overlap than for black-only image data;</li> <li>exposing a color light-sensitive material according to the exposure data; and</li> <li>forming a color proof comprising <u>generating a black color on the color light-sensitive material for the black-only exposure data, and</u></li> <li><u>generating a lower density black color on the color light-sensitive material for the black and another color overlap exposure data than the black color generated for the black-only exposure data.</u></li> </ul>
<p><b>Claim 5 (cancelled):</b> A color proof forming method comprising the steps of:</p> <ul style="list-style-type: none"> <li>exposing a color light-sensitive material according to a plurality of colors of image data including a black color; and</li> <li>forming the color proof,</li> </ul> <p>wherein the color light-sensitive material is exposed in a condition which is different between the image data in which the black color and other colors are overlapped with each other, and image data of only the black color.</p>	<p><b>Claim 8: (5+2)</b> A color proof forming method comprising the steps of:</p> <ul style="list-style-type: none"> <li>exposing a color light-sensitive material according to exposure data for image data in which black and another color overlap that is different from exposure data for black-only image data; and</li> <li>forming a color proof comprising</li> </ul>
<p><b>Claim 2 (allowable):</b> The color proof forming apparatus of claim 1, wherein the image processor <u>forms the data for exposure so that a higher density black color than in the case of the image data of only the black color is generated in a color light-sensitive material for the image data in which the black color and the other colors are overlapped with each other.</u></p>	<ul style="list-style-type: none"> <li><u>generating a black color on the color light-sensitive material for the black-only exposure data, and</u></li> <li><u>generating a higher density black color on the color light-sensitive material for the black-and-another-color-overlap exposure data than the black color generated for the black-only exposure data</u></li> </ul>

Claims that were combined	New (combined) claims
<p><b>Claim 3 (allowable)</b> The color proof forming apparatus of claim 1,</p> <p>wherein the image processor <u>forms the data of exposure so that a lower density black color than in the case of the image data of only the black color is generated in a color light-sensitive material for the image data in which the black color and the other colors are overlapped with each other.</u></p>	<p>Claim 9: (5[see above]+3) A color proof forming method comprising the steps of:</p> <p>    exposing a color light-sensitive material according to exposure data for image data in which black and another color overlaps that is different from exposure data for black-only image data; and</p> <p>    forming a color proof comprising</p> <p>        <u>generating a black color on the color light-sensitive material for the black-only exposure data, and</u></p> <p>        <u>generating a lower density black color on the color light-sensitive material for the black-and-another-color-overlap exposure data than the black color generated for the black-only exposure data.</u></p>

Canceled claims 4 and 5 had been previously rejected as allegedly obvious over U.S. Pat. No. 5,408,296 to Okutsu ("Okutsu") in view of U.S. Pat. No. 5,096,801 to Koya ("Koya") and U.S. Pat. No. 4,916,530 to Neilson ("Neilson"). Dependent claims 2 and 3 had been indicated as containing allowable subject matter over the same art.

In the Final Office Action, the Examiner did not address the patentability of claims 6-9 in view of Okutsu, Koya, and Neilson. Instead the Examiner conducted a new search for art and rejected these claims as discussed above as allegedly unpatentable over Sugiura in view of Yamada. The Examiner indicated that Applicant's amendment necessitated the new grounds of rejection presented in the Office action dated January 3, 2005, and made the action final. The Examiner did not explain what, in the Amendment, necessitated this. Since the last Examiner had requested clarifying changes in the language of the specification and claims, Applicant rewrote claims 2 and 3 as independents with similar clarifying amendments as the language in new independent claims 6-9.

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